

Floodplain Protection

Checklist for HUD or Responsible Entity

General requirements	Legislation	Regulation
Avoid the adverse impacts associated with the occupancy and modification of floodplains. Avoid floodplain development whenever there are practicable alternatives.	Executive Order 11988, May 24 1977	24 CFR Part 55

1. Is the Project located in a FEMA-designated floodway or a 100 or 500-year flood plain?

☐ Maintain, in your ERR, the FEMA map panel that includes your project site. Make sure to include the map panel number and date.

- ☐ No: STOP here. The Floodplain Management regulations do not apply. Record your determination that the project is not in a floodplain or floodway.
- ☐ Yes—Floodway. **STOP. The National Flood Insurance Program prohibits federal financial assistance for use in a floodway.** The only exception is for functionally dependent uses, such as a marina, a port facility, a waterfront park, a bridge or a dam. If your project is a functionally dependent use in a floodway, proceed to #3
- ☐ Yes—500-year flood plain (Zone B or X). **PROCEED to #2**
- ☐ Yes—100 Year flood plain (Zone A or V). **PROCEED to #3**

2. For projects in the 500-year flood plain: Does your project involve a critical action, defined as an activity for which even a slight chance of flooding would be too great because it might result in loss of life, injury or property damage? Specific examples include:

- Structures or facilities that produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials.
 - Structures or facilities that provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (e.g., data storage centers, generating plants, principal utility lines, emergency operations centers including fire and police stations, and roadways providing sole egress from flood-prone areas).
 - Structures or facilities that are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events, e.g. persons who reside in hospitals, nursing homes, convalescent homes, intermediate care facilities, board and care facilities, and retirement service centers. Housing for independent living for the elderly is not considered a critical action.
- ☐ No: STOP here. The project can proceed without further analysis. Record your determination and attach flood plain map and documentation that project does not involve a critical action.
- ☐ Yes: PROCEED to #3

3. Does your project meet one of the categories of proposed action for which the floodplain management regulations do not apply?

(Below are several common exemptions--please see 24 CFR 55.12 for additional categories of proposed action)

- Financial assistance for minor repairs or improvements on one-to-four-family properties that do not meet the thresholds for 'substantial improvement' under 55.2 (b)(8)
- A minor amendment to a previously approved action with no additional adverse impact on or from a floodplain.

- Approval of a project site, an incidental portion of which is situated in an adjacent floodplain, but only with certain further conditions (see 24 CFR 55.12(c)(6)).
- A project on any site in a floodplain for which FEMA has issued a final Letter of Map Amendment or Letter of Map Revision that removed the property from a FEMA-designated floodplain location.
- A project on any site in a floodplain for which FEMA has issued a conditional LOMA or LOMR if the approval is subject to the requirements and conditions of the conditional LOMA or LOMR.

☐ Yes: Stop here. Record your determination that the project is exempt from floodplain management regulations per 24 CFR 55.12. Maintain copies of all of the documents you have used to make your determination.

☐ **No: Reject Project Site or Request a Letter of Map Amendment or Revision from FEMA or Complete the 8-step decision-making process described in 24 CFR Section 55.20.** Please note that both options take time and resources. The 8-step decision-making process requires two public notice and comment periods. If you find that there are no practicable alternatives to locating the proposal in a floodplain, you must notify any private party participating in a financial transaction for the property of the hazards of the floodplain location before the execution of documents completing the transaction. (24 CFR Section 55.21)

DISCLAIMER: This document is intended as a tool to help grantees and HUD staff complete NEPA requirements. This document is subject to change. This is not a policy statement, and the Floodplain Executive Order and Regulations take precedence over any information found in this document.

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